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ABSTRACT

This paper outlines the elements of the federal welfare reform legislation and the most important child welfare reforms currently being implemented. Some of the common themes of child welfare reforms are identified. The paper also discusses why new child welfare systems should be designed by child welfare and workfare authorities in collaboration and where child welfare reform should be going. First and foremost among recent federal laws that are significant to child welfare reform is the Adoption and Safe Families Act of 1997, which makes clear that child safety should be the paramount concern of the child welfare system. The Multi-Ethnic Placement Act and its amendments are also important elements of current policy, as are the waivers of regulations governing the expenditure of federal funds for child welfare. Child welfare and workfare reformers should work together, first because of the relationships among family poverty, child abuse and neglect, and involvement in the child welfare system. A second consideration is that the populations served by the workfare and child welfare systems are rapidly becoming one and the same. New service delivery models are likely to emerge in places where the two systems begin to work together. Although every state is running a surplus in its temporary assistance to needy families budget and the federal government is inviting experimentation in child welfare through its waiver program, there is no guarantee that either of these situations will last. This is the time to link basic economic assistance and other services to families. (SLD)

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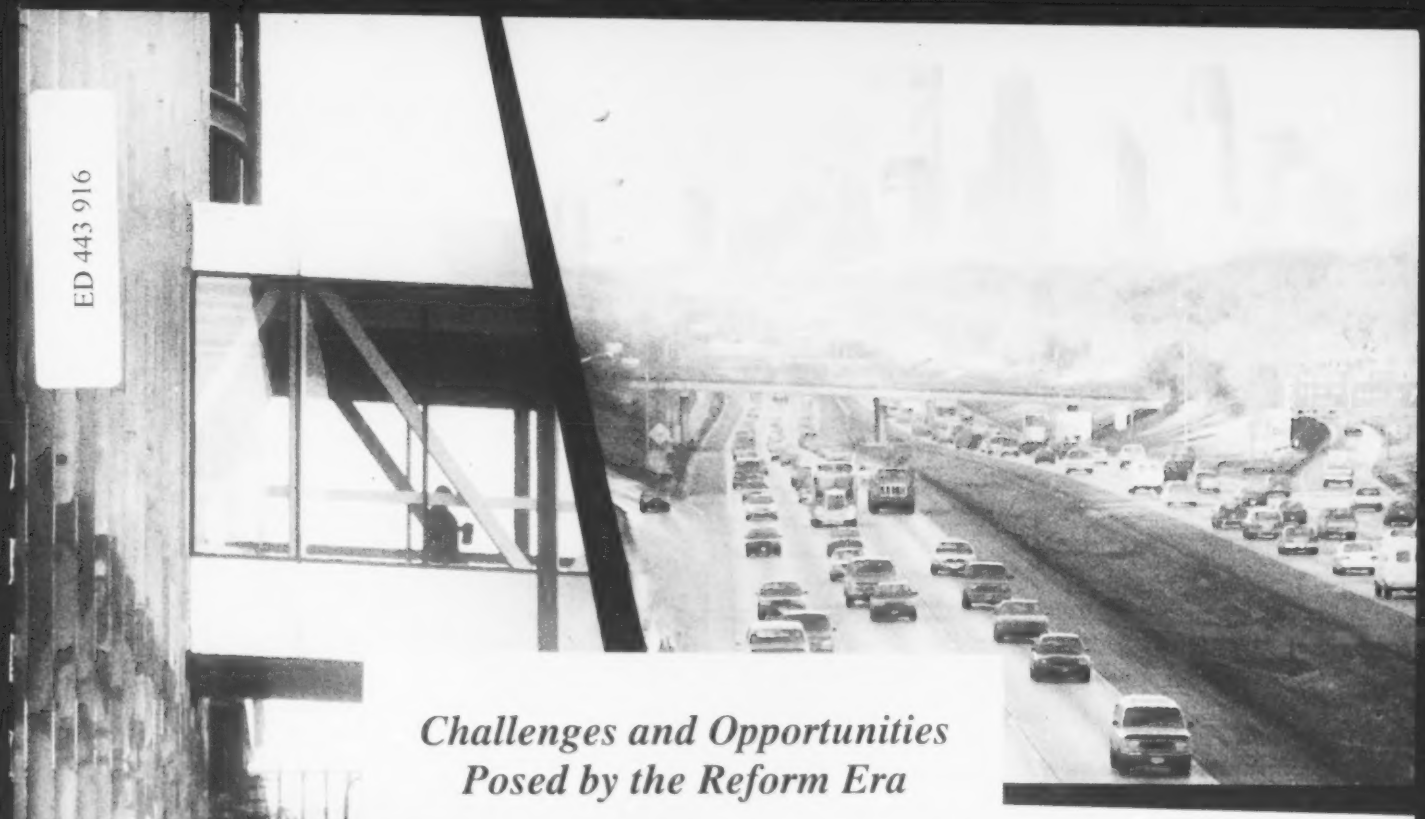

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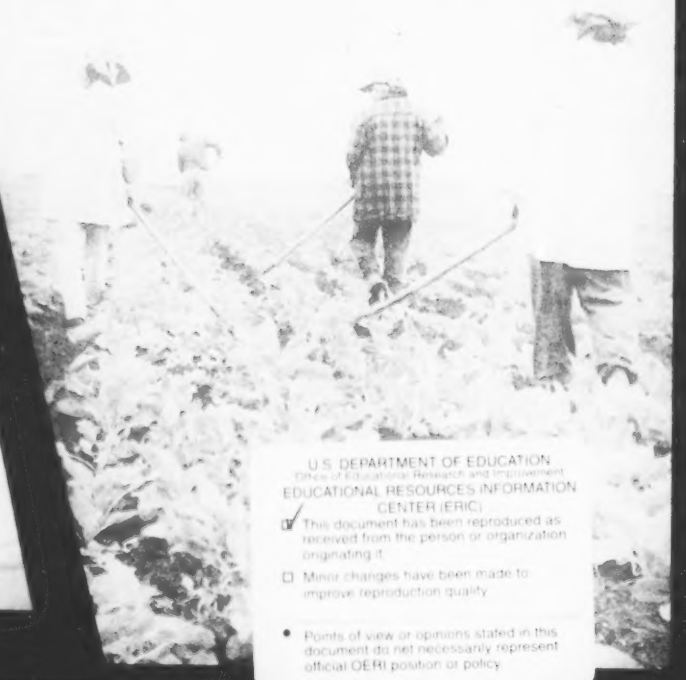

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Challenges and Opportunities Posed by the Reform Era

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An Occasional Paper of the
Center for Advanced Studies in Child Welfare

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Introduction

In the eyes of the public and policy makers we are now in the midst of the era of welfare reform. We have clearly ended welfare as we knew it and have embarked on a course of wide-ranging experimentation with the nation's economic safety net for children and families. What is less obvious, however, both to the public and most policy makers, is that we are also in the midst of an era of the most profound child welfare services reform in at least 20 years. My primary purpose today is to argue that the architects of welfare and child welfare reform, at all levels of government, must design these reforms collaboratively if they are to achieve the greatest benefit for children and families.

I will be presenting a *national perspective* on this issue today. This is for two reasons. First, out of necessity, since I make no claim to having any meaningful knowledge of Minnesota's efforts to implement welfare or child welfare reform. Second, because I see this as a time of wide-ranging experimentation at the state and local level regarding both welfare and child and family services. In such a context, I believe that it is wise to go beyond what is ready at hand when contemplating what is possible. In short, an open mind is a good idea these days more than ever. My comments also assume a basic knowledge on your part of welfare reform and national child welfare policy and funding.

In the next twenty minutes or so I will briefly outline the elements of the federal welfare reform legislation and the most important child welfare reforms currently being implemented. I will identify some common themes that emerge from the child welfare reforms in particular. I will then turn to a brief discussion of why child welfare and workfare authorities should design their new systems collaboratively. I will identify some unique challenges, and opportunities, posed by

the reform era. Finally I will present a sketch of my vision of where welfare and child welfare reform ought to be going. I believe these to be very complex issues that require more time than I have today to discuss adequately, but I hope to at least identify some central issues for discussion.

Welfare Reform

What, in general terms, is meant by welfare reform? In August 1996, President Clinton signed into law P.L. 104-193. The law converted AFDC, Emergency Assistance (incidentally, a program previously used to fund family preservation services in many states), and the Job Opportunities and Basic Skills training program into the Temporary Assistance to Needy Families (TANF) block grant in the form of a single capped entitlement to states at an estimated funding level of $16.5 billion through 2002. A few elements of the law are most relevant to my presentation. There is no longer a federal entitlement to basic cash assistance to families in need. With few exceptions, the assistance that states choose to make available, other than Food Stamps and Medicaid, is tied to parental work effort. Federal reimbursement under TANF for state aid is time limited with most states choosing much shorter time limits than those allowed under federal law. The childcare funding provided under the law is inadequate in the long-term if states are able to meet the work participation goals in the law. Lastly, major sources of federal funding for child welfare services are either eliminated through collapsing them into TANF (i.e., Emergency Assistance) or cut (i.e., the Title XX Social Services Block Grant).

At the most basic level, PRWORA emphasizes a parent's responsibility to work. It represents the final transformation of a program intended to support low-income adults' ability to *parent* their children, Aid to Dependent Children, into a program intended to provide limited

support for low-income parents to *work*. AFDC was ultimately a child welfare program, albeit a deeply flawed one. TANF is a workfare program. Its enacting legislation scarcely mentions parenting.

Child Welfare Reform

What is the nature of recent child welfare reforms? I will focus on selected changes in federal policy that I believe to be the most significant, though my list is by no means exhaustive. First and foremost is the Adoption and Safe Families Act of 1997. Although the law contains a number of elements, the most significant ones can be grouped into the following categories.

ASFA

First, ASFA makes clear that child safety should be the paramount concern of the child welfare system, both in terms of decisions to remove a child from home, and to return a child to the care of his or her family. This is manifest in changes to the wording of Title IV-B requirements for state child welfare services plans and case plans and in the restrictions on the conditions under which reasonable efforts must be made to preserve families and engage in family reunification. Second, ASFA emphasizes moving children more quickly toward permanence than under current law through a number of mechanisms. These include a very short time frame (30 days) for permanency plan hearings when the determination is made that reasonable efforts do not need to be made toward family reunification, a shortening from 18 to 12 months of the deadline for a permanency plan hearing in all other cases, encouragement of concurrent planning, and the requirement, with some exceptions, that child welfare agencies file a petition to terminate a parent's

rights whenever a child has been in out-of-home care for at least 15 of the past 22 months. One notable exception to the TPR provisions of ASFA is that such petitions need not be filed when a child is living with a relative. Third, ASFA provides explicit support for increasing and supporting adoption by creating adoption incentive payments to the states, expanding health coverage for adopted children with special needs through Medicaid, continuing Title IV-E eligibility for dissolved adoptions, and eliminating geographic barriers to adoption. Fourth, ASFA continues funding for part 2 of Title IV-B, formerly the Family Preservation and Support program, by renaming it the Promoting Safe and Stable Families Program and allowing the funds to be used for time-limited family reunification and adoption support and preservation efforts. Lastly, ASFA attempts to improve accountability for child welfare services by giving relatives, foster parents, and pre-adoptive parents the right to be heard in review hearings, requiring states to establish quality standards for foster care, expanding the Title IV-E waiver program to allow for more state experimentation, and establishing outcome measures to assess state's performance in their management of Title IV-B and IV-E programs.

ASFA is a hodgepodge of policy initiatives, but certain themes are apparent. First, the backlash against family preservation clearly had its effect in Washington. The new message is that parents should be given a shorter period of time to get their act together and that the system must move more quickly to create permanent living situations for children. Second, adoption is clearly in favor in Washington. This is also manifest in the President's adoption initiatives. Lastly, the relative stability of child welfare policy over the past twenty years has come to an end and ASFA most likely does not represent a new paradigm in the way that the Adoption and Child Welfare Act

of 1980 (P.L. 96-272) did.[1] The proliferation of Title IV-E waivers, continuing interest in child welfare fiscal reform at the federal level (i.e., block grants), and the development of performance standards for states, foreshadows more change in the future in federal child welfare policy.

MEPA

In addition to ASFA, the Multi-Ethnic Placement Act and its amendments are also important elements of current child welfare policy and represent a considerable shift from child welfare practice over the past two decades or so in which race and culture were considered important factors to take into account when making placement decisions. MEPA states that race, ethnicity and national origin may not be used in child welfare practice to either delay or deny a child's foster care or adoptive placement, or the opportunity of any person to become a foster or adoptive parent. In fact, states can lose part of their Title IV-E foster care funding if the federal government determines that this provision of MEPA has been violated. In addition, MEPA allows individuals to sue under federal civil rights law if they believe that race or ethnicity has been used to deny a child or parent their rights under MEPA. MEPA also calls for diligent recruitment of foster and adoptive parents who reflect the ethnic and racial diversity of children in the community for whom foster and adoptive placements are needed.

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[1]P.L. 96-272 ushered in the era of "permanency planning," calling for prompt and decisive action to maintain children in their own homes or place them, as quickly as possible, in permanent homes with other families, preferably through guardianship or adoption. The law also created financial incentives for the states to pursue permanency for children (e.g., adoption subsidies) and threatened withdrawal of federal funding if states did not carry out the law's procedural protections for children and families. This was a radical shift from the previously laissez faire federal policy regarding how state and local child welfare agencies should serve children and families. In contrast, although ASFA emphasizes certain aspects of existing child welfare policy (child protection) over others (family preservation), it does not represent a sea change in the way that P.L. 96-272 did.

Thus, interestingly, MEPA is explicitly color-blind at the *individual* level in its prohibition against using race in making placements but recognizes the importance of race and ethnicity at the *community* level. The latter consideration is no doubt due to the child welfare system's chronic inability to attract and retain foster and adoptive parents from communities of color. Still, from my perspective it is telling that the color-blind elements of MEPA are enforced through the explicit threat of federal financial sanctions and civil rights lawsuits, whereas it is unclear what consequences, if any, states face for failure to engage in diligent foster and adoptive parent recruitment in communities of color. At any rate, it should be clear that those interested in the culture wars over race in America have found in the child welfare system another place to wage their battles.

Title IV-E Waivers

The waivers granted of regulations governing the expenditure of Title IV-E funds to states in recent years provide a glimpse of the future of child welfare policy and practice. States have been given waivers to conduct a number of demonstration projects using IV-E dollars. Although there are a wide range of demonstrations, I will focus on three trends that are already apparent based on the first 18 states to obtain waivers. One of the most popular uses of the waivers is the creation of subsidized guardianship programs for children living in kinship foster care. The idea is to end child welfare and court supervision of kinship care arrangements while facilitating the continuation of financial assistance that foster care maintenance payments have provided to the kin caregiver. These experiments attempt to address the rapid growth of kinship foster care nationally and the fact that many children placed with kin appear to be staying in the system indefinitely.

Several states have also engaged in various types of system reform all of which rely to some extent on fiscal incentives to counties or regions of a state. These projects emphasize the need to be more flexible in funding and service delivery. A major element of several of these projects is the use of capitated payment strategies and other aspects of managed care. Thus, while there is an emphasis on reform present in several of the waiver programs, there is also a heavy emphasis on the idea that changing the way child welfare services are administered can help contain costs.

Related to the system reform waiver demonstrations are a few others that seek to provide intensive so-called wrap-around services using IV-E funds. The intent of these programs is either to prevent out-of-home placement altogether for identified families or to reduce the need for institutional care of children already in out-of-home care. Both of these goals would presumably reduce costs.

It is too early to tell which if any of these demonstrations will succeed, but it seems to me that three major themes emerge from the waiver demonstrations so far. First, states recognize that the growth of long-term state-supported kinship care raises serious issues for the child welfare system, issues that are difficult to resolve given current funding mechanisms and policy. I will point out shortly how welfare reform only raises the ante even more when it comes to questions of how best to structure state-supported kinship care. Second, states are very interested in containing the costs of the child welfare system and believe that they can do so by using funds more flexibly, more intensively, and by employing the cost control mechanisms of managed care and privatization. The states are not alone in their concern about the costs of child welfare services. The Urban Institute's recently released report on government child welfare expenditures concluded that $14.4 billion is a conservative estimate of total expenditures on child welfare programs by federal, state, and local

government in 1996. Federal expenditures were around $6.5 billion in that year. To put that in perspective, the federal government now spends more on child welfare services than it does on Title 1, the school breakfast and lunch programs, WIC, child care, and Head Start.

Why Do Things Any Differently?

So, there is no question that this is a period of rapid change in public assistance and child welfare services programs, though one could argue that "reform" of child welfare services is still more at the policy level than at the practice level. Still, does the simple fact that these changes are taking place at the same time necessarily imply that they should be coordinated efforts? *Why* should child welfare and public assistance authorities design their reforms in collaboration? After all, it is not as if these folks have worked closely together in the past. For example, although they were undoubtedly interested, it is hard to believe that federal child welfare authorities had much to do with the design of TANF! One can make similar observations about front-line practice. As an administrator of one of the for-profit welfare reform operations in Milwaukee recently observed based on his experience as a child welfare worker, in the past, about the only interaction between the two systems was when a child welfare worker asked an AFDC eligibility worker to cut off a parent's check so that they could find the parent. This is probably an overstatement, but it illustrates the point. Another welfare manager recently pointed out to me that he thought that we had ended this debate back in the 1970s when we separated public assistance from social services.

Regardless of the sentiments of current administrators, I believe that there are at least two very good reasons for asking the two systems to work together, indeed even to function as one system for many intents and purposes. First, the undeniable relationship between family poverty, child abuse and neglect, and involvement in the child welfare system demands that changes in *either*

system take into account the purpose and functioning of the other. A few figures should help to support this point. Most obvious is the fact that over half of all children in out-of-home care come from Title IV-E eligible (i.e., AFDC eligible) families and that approximately 90 percent are Medicaid eligible. The most recent National Incidence Study of Child Abuse and Neglect (NIS-3) found that children from families with incomes below $15,000 per year were 22 times more likely to be subjected to child maltreatment than children from families with incomes over $30,000 per year (still below the median household income). Lastly, though there are almost no data from welfare waiver demonstrations on child welfare outcomes for children in effected families, the limited evidence is troubling. For example, a study in Illinois found that families who received financial sanctions due to non-compliance with work rules and other requirements of the workfare waiver in that state were 53 percent more likely in the ensuing year to become an open child welfare case and over 104 percent more likely to have a child placed in out-of-home care.

Second, the populations served by the workfare and child welfare systems are rapidly becoming one in the same. Poverty is not the only thing that the two populations have in common. As cash assistance caseloads plummet around the country, there is growing recognition that the residual caseload is made up largely of families with parents who have serious obstacles to succeeding in the workforce. These obstacles include parental mental illness, substance abuse, domestic violence, and limited education. With the possible exception of limited education, these are exactly the kinds of issues that parents bring with them to the child welfare system. Put simply, for the most part the challenges that limit the ability of many parents to parent effectively also limit their ability to hold down any job, let alone a family-supporting job. This is not to say that all parents who apply for work-based welfare are child abusers, only that the kinds of services that are

needed to help both populations are beginning to look very much the same. Moreover, workfare offices, like it or not, are rapidly becoming social services offices as program administrators come to terms with the needs of their clients.

The bottom line is that when you "reform" the public assistance system, you alter something that the vast majority of families involved with the child welfare system rely on. At the same time, the demands imposed on parents by the child welfare system (e.g., court appearances, workday meetings with child welfare workers and treatment providers, etc.) can get in the way of parents' ability to work, ostensibly the goal of the new welfare system. I believe that we simply do not have the luxury anymore of acting as if the two systems are only peripherally related. Whatever its limitations, the previous public assistance system complemented the child welfare services system: It provided minimal financial support to poor families regardless of whether or not parents chose or were able to work. This is no longer the case.

Challenges

Let me describe some of the potential problems posed by the current configuration of welfare and child welfare reforms. I should preface these examples by admitting that they primarily illustrate challenges for the child welfare system rather than for the workfare system. This is because the managers of the new welfare system can largely ignore the consequences of their policies and practices for the child welfare system, at least for the time being, since the success of welfare reform is being judged largely in terms of caseload reduction. As a result, workfare administrators can ignore broader issues of parental and child well-being. I believe that this is largely the reason for the current "hear no evil, see no evil, speak no evil" attitude of the architects and administrators of

welfare reform when it comes to the child welfare system.

The most obvious problem welfare reform presents for the child welfare system is the potential increase in demand for services that will likely result if many families cannot cope with the demand to obtain steady employment. The increase in demand that might result from greater familial poverty and other stress on families is far greater than the decrease in demand that could result from improvement in the economic circumstances of poor families. This is for a very simple reason: The financial benefits of work are likely to be marginal for most families that enter the workforce as a result of reform. Studies of families involved in welfare-to-work programs and those who "voluntarily" leave welfare show that relatively few experience substantial improvements in their economic well-being.[2] If the economic benefits of reform for families are likely to be limited, the economic consequences of program sanctions for affected families may be devastating. It largely remains to be seen how parents who receive financial sanctions due to program noncompliance will fare. Similarly, we have yet to witness large-scale dropping of families from assistance due to time limits. To the extent that the impact of welfare reform on the child welfare system has been discussed at all it is almost always discussed in these terms: Will enough families be harmed enough by welfare reform to significantly increase demand for child welfare services?

Child welfare reform only complicates matters even more. For example, shortening permanency planning deadlines and speeding TPR decisions at a time when communities have to gear up for moving virtually the entire population of low-income families with children into the

[2] See, for example, Daniel R. Meyer and Maria Cancian, "Life after Welfare," *Public Welfare* (Fall 1996, pp. 25-29); *The JOBS Evaluation, Early Findings on Program Impacts in Three Sites* (Washington, D.C.: U.S. Department of Health and Human Services and U.S. Department of Education, 1995); James Riccio, Daniel Friedlander, and Stephen Freedman, *GAIN: Benefits, Costs, and Three-Year Impacts of a Welfare-to-Work Program* (New York: Manpower Demonstration

labor force is not a trivial pursuit. As I have already mentioned, many of the parents in these families have chronic problems that will need to be addressed if parents are to succeed in obtaining steady work. Yet the new permanency deadlines do not acknowledge the chronicity of substance abuse, mental illness, and domestic violence. For example, *most* people who recover from a substance abuse problem have at least one significant relapse on the way to recovery, but poor parents in the reform era may not have that luxury if they are to keep their children.

Given the color-blind ethos behind MEPA, it is ironic that the impact of the new ASFA time frames is most likely to affect children of color, particularly African American children. Children of color not only enter the child welfare system in disproportionate numbers, they tend to stay in care much longer as well. Thus, the children being brought into court as a result of mandated TPR petition hearings are disproportionately likely to be children of color. This will only be compounded by the fact that residual welfare caseloads are increasingly made up of families of color (now a majority of all cases nationally), as white families appear to have had more luck in gaining entry to the work force. Hopefully the forces behind MEPA were correct in their assumption that the main reason children of color remain in foster care is that race-matching placement policies of child welfare agencies have kept a host of white families from adopting children of color. I have my doubts.

But increased demand for services is not the only potential problem caused by simultaneous welfare and child welfare reform. What about the tendency of one system to try to circumscribe its responsibility for helping children and families, often at the expense of the other system? For example, some states and localities have defined failure to succeed at meeting required workfare

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Research Corporation, 1994)

requirements as constituting de facto evidence of child neglect. This clearly complicates things for child welfare agencies. Alternatively, some child welfare agencies hope to simply define away the problem of increased neglect reports due to welfare reform by adhering to a rigid interpretation of the idea that "poverty-related" neglect does not constitute child maltreatment. Needless to say, this is not likely to please many mandated reporters who already feel that the system fails to protect children in dire circumstances.

TANF and child welfare agencies will almost certainly turn to kinship care as a way to find homes for children who are displaced by welfare reform. What will be interesting to watch is *how* they choose to do this. Will it take the form of expanded use of Title IV-E foster care funding of kinship care within the legal framework of the child welfare system, with all of the legal and fiscal challenges that entails? One attraction of this approach is the fact that, unlike TANF, Title IV-E imposes no time limit or work requirements on financial support of relative caregivers. Alternatively, will states increasingly rely on thinly veiled threats of child removal to convince extended family members to find a home for endangered children without government financial assistance or other services? Wisconsin has already created a hybrid kinship care program that pays kin to care for children "at risk" of coming under the protection of the child welfare system, neatly avoiding the need to provide family or child welfare services. It would certainly be nice if policy makers and program administrators could devise a way of supporting the important role of relative caregiving that meets the needs of both the child welfare and workfare systems.

Perhaps the least obvious problem caused by the haphazard coordination of welfare and child welfare reform is the fact that it is likely to lead to further needless fragmentation of social services. TANF agencies need access to substance abuse services, mental health services, and

services to women living with violent partners so as to enable parents to work. Child welfare agencies need access to precisely the same kinds of services, but for a different purpose: They want to help parents to be better parents. In the absence of a firm commitment on the part of the service provider to helping parents to achieve both goals, it is far too easy to focus on one at the expense of the other. This is particularly true when the agency paying for the service (i.e., either the TANF of child welfare agency) has only one goal in mind. So-called child welfare system reform, wrap-around, and managed care initiatives undertaken in isolation from welfare reform appear almost laughable when viewed from this perspective.

Opportunities

Let's assume for the moment that I have convinced you, or you were already convinced, that the two systems should be working closely together. What would this look like? What are the opportunities presented by the reform era?

First and foremost, I believe that actively struggling with welfare reform and child welfare brings us face to face with the need to create an integrated system of supports, both formal and informal, to ensure that families have the best chance to balance the demands, and achieve the rewards, of work and parenting. There appears to be a broad political consensus that work must be part of the social contract between families and society. This is not to say that there is no room for a better acknowledgment of parenting as important work with significant benefits to society, particularly during the first year or so of a child's life. Nevertheless, we simply are not going to return anytime soon to a system of cash assistance that is not firmly tied to work, or activities

directed at preparing parents for work.

Ironically, the explicit recognition that moving low-income parents into the work force will require subsidized child care, health care, and other supports raises the question as to why these supports are not available to all working poor families, or, for that matter, all working families. The reform era offers the possibility of a broad political coalition in support of universal family supports, something that was less conceivable as long as the working poor could be taught to see AFDC recipients as "them." Now virtually all poor families are working poor families, they are a much larger "us."

At a practical level, workfare administrators and workers must begin to see parenting as an essential task of working parents, one that cannot simply take a back seat to work. This will involve more attention on the part of workfare personnel to the implications for parenting of the demands they put on parents. Similarly, child welfare administrators and workers must learn to accept that parents have no choice but to balance the demands of their job with the demands of the court and the case plan. Failure to do so nowadays can easily result in homelessness, something that makes family preservation and reunification very difficult. In some cases, it may be possible to initiate these changes in philosophy and practice from the bottom up in both systems. However, real change is likely to require leadership from the top both due to funding issues and attitudinal inertia in both systems. Indeed, collaborative efforts will be difficult to accomplish if the political leadership actively denies the relationship between welfare reform and child welfare, a common position these days.

New service delivery models are likely to emerge in places where the two systems begin to work together. In particular, substance abuse, mental health, and domestic violence service

providers will need to develop intervention strategies that acknowledge the complex and often competing demands of parenting and work. Collaborative planning of managed care initiatives by child welfare and workfare authorities could lead to some cutting-edge approaches to providing preventive and supportive services at the community or even neighborhood level using Medicaid, TANF, and child welfare funding streams.

Conclusion

The time in ripe for such experimentation. Every state is running a huge surplus in its TANF budget. The federal government is inviting experimentation in child welfare financing through the Title IV-E waiver program. But there is no guarantee that either of these situations will last. Economic circumstances and shifting political winds could swiftly change things for the worse. To put it bluntly, collaboration between the workfare and child welfare systems is most likely to happen and to be fruitful in the context of innovation and fiscal largess. Let's not wait for the predicted "race to the bottom" in the administration of welfare reform before we get the two systems working in sync. Perhaps we were wrong back in the 1960s when we separated basic economic assistance from other services to families. We are certainly wrong in doing so now.

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